

**STAFFORD COUNTY
AGRICULTURAL AND PURCHASE OF DEVELOPMENT
RIGHTS COMMITTEE MINUTES
October 25, 2010**

The meeting of the Stafford County Agricultural and Purchase of Development Rights Committee for Monday, October 25, 2010, was called to order at 7:02 p.m. by Chairman Tom Coen in the County Administration Conference Room of the County Administration Building.

Members Present: Coen, Adams, Clark, Hunt, McClevey and O'Hara

Members Absent:

Staff Present: Baker, Lott, Neuhard, and Knighting

1. Call to Order

Mr. Coen: It is a little after 7:00 and I just remind everyone to speak loudly for the benefit of our support personnel.

Ms. Knighting: You have a quorum.

2. Approval of Minutes – September 27, 2010

Mr. Coen: Okay, the first item is the approval of the September 27, 2010 minutes. Is there a motion to approve them?

Mr. McClevey: So moved.

Mrs. Clark: Second.

Mr. Coen: Okay, moved by Marty, seconded by Gail. Any discussion on the 27th minutes? Seeing none, we will put it to a vote? All those in favor of the September 27, 2010 minutes say aye.

Mr. Adams: Aye.

Mrs. Clark: Aye.

Mr. Hunt: Aye.

Mr. McClevey: Aye.

Mr. O'Hara: Aye.

Mr. Coen: Aye. All opposed? It passes unanimously. So now we move to staff update and we will turn to our staff. Hey Scott, we just approved the minutes from the 27th, that is all we have done so far and we are moving to the staff update.

3. Staff Update

• Transfer of Development Rights (TDR)

Mrs. Baker: Okay, Transfer of Development Rights (TDR), we just thought we would fill you all in on what is going on with that. Who knows if you would be involved in that at some point or not. The Board of Supervisors did refer to the Planning Commission, the Planning Commission has received it and now a joint committee has been formed between the Board of Supervisors and the Planning Commission. They will be moving forward on that, the current Comprehensive Plan, the Draft Plan, does have an element in there for Transfer of Development Rights but is not specific enough to designate sending and receiving areas within the County and then create an ordinance and include more detail in the Comprehensive Plan. Mapping and then the Zoning Ordinance should change to create that program so that is something they will be working on in the next few months.

Mr. Adams: Is the transfer the one where the developer kind of deals with an individual and buys something and shows it to the County, kind of like what Montgomery County does?

Mrs. Baker: Right, Montgomery County does that. Several locations in Maryland. The only locality in Virginia that has already adopted it is Frederick County, near Winchester. We looked at that and there is also a model ordinance that was developed by the State to kind of give you an idea of what to include in your ordinance. We will see how that progresses and keep you all posted.

Mr. Coen: For the newer members, this pops up periodically. When the Comprehensive Plan started, it was sort of bounced around and then last year, I think it was, there was a suggestion that it fall in our bailiwick. At that point there was a lot on our plate and a lot on our staff's plate so we certainly did not grab onto it then but it has always been bounced around and if it needed a home it would fall into our bailiwick if it needed to. Most of the members were okay with the concept of it, not that we demand it or ask it or plead it because staff was already doing a lot with the pilot program but it was something that we felt that it would fall into our expertise.

Mrs. Baker: One of the subcommittees back in 2006 studied it and I think they chose not to do anything at the time or chose not to recommend anything. Since then some legislation has changed and it made it a little bit easier to try to implement programs, which is why the renewed interest now from several localities. It allows more of a banking of credits for your transfer of development rights. So you can hold on to them, you don't have to have a willing seller or purchaser at the time, which is how it had worked previously. It will be something that the County would get involved in and the Commissioner of Revenue office would have to be involved with. I lost my train of thought there, but it will still be complicated but we will have to keep track of the properties and again a conservation easement would be recorded with the property.

Mr. Coen: Okay.

- Comprehensive Plan

Mrs. Baker: And I just wanted to update you on the Comprehensive Plan. The Planning Commission has had it for several months. The Supervisors also had a joint committee with the Planning Commission and the Planning Commission is holding their public hearing on November 17th. They are requested to act so that the Board of Supervisors can potentially hold their public hearing on the Plan on December 14th. So, again, it has been a long process if any of you have been following it since it started back in 2006 and it is going to be available on the web probably tomorrow or Wednesday. There is the October 13th version on the website right now if anybody wants to look at it. There have been a few changes that have been made so that final draft version that is being publicized for hearing will be available this week so if anybody has any questions, feel free to call our office.

Mr. Neuhard: How many pages was the advertisement?

Mrs. Baker: The advertisement is whittled down to eight (8) pages from nine (9). It will be the entire Stafford Zoom Section two weeks in a row.

Mr. Neuhard: Lots of maps.

Mr. Coen: There goes that chunk of the budget.

- Board of Supervisors Legislative Sub-Committee

Mr. Neuhard: Last item on the staff report is the Legislative Sub-Committee that has been appointed by the Board. I just wanted to make you aware that it is pertinent to the work you will be doing tonight. They have appointed a sub-committee to research, consider and recommend legislative efforts for this General Assembly cycle. The two that are serving on that committee are Supervisor Sterling and Supervisor Stimpson. They had planned to have a meeting last week but it had to be postponed because of conflict schedules and I believe that they are trying to reschedule soon because the session is fast approaching. One of the items on their agenda for their first meeting, which was again postponed, is the rollback taxes. I wanted you to be aware of that and that it would be important that if it was possible for you all to come to some agreement tonight on your recommendations so that we can forward that as quickly as possible to the Board at-large and to this committee so they can have full consideration of it as they are forming their legislative slate work this session, it would be helpful.

Mr. Coen: Okay, so we move to the unfinished business, which is the main topic for this evening is the rollback tax issue.

4. Unfinished Business

- Rollback Taxes for PDR Funding

Mrs. Baker: I am passing out a power point presentation that staff has prepared and is going to talk about from his standpoint in the Commissioner of Revenue's Office.

Scott Mayausky: I appreciate you all having me back. We don't need to go through the power point slide by slide. It is basically the same thing that we talked about at the last meeting. This is the presentation I put together for the Board, which was after we had met several months ago. If anybody has any questions about rollbacks please stop me and ask but you guys probably know more about rollbacks than any other group that I have met with to this point. You want to turn to page three, at the bottom of page three, just what a rollback bill looks like. It shows you the value, the tax rate, it just gives you an idea of what the rollback tax is. It is one thing to talk about it but here you can actually see how it calculates and what it looks like. The next page, the top slide, shows you the amount of rollback tax that has been generated since 2002 on an annual basis. We talked last time that it looks like a mountain peak. When the real estate market was booming, a lot of property was coming out of land use and into development. It would cause the rollback taxes to spike in 2003 and 2004 and now that the development pressure and the real estate market has waned a little bit, it has caused the rollback taxes to drop dramatically, from \$92,000 last year and \$100,500 this year. I would not anticipate anything different in the future, however, we just don't know with rollback taxes. It is impossible to estimate as you will see in a couple slides down the road. We had two different proposals that came out of our first meeting, the first one was Supervisor Milde's proposal to add two years to the existing rollback tax and have those two years dedicated to the PDR program. Turn the page, this is the first slide at the top, it shows you what that rollback would look like, current plus seven years. Then at the bottom is an estimate of what we thought the revenue it would generate had this been in place since 2002. Again, we talked about this is clearly not a primary funding source for you all. It may be a source but it is certainly not going to satisfy the wants and needs of this committee. After we kicked that around and talked about the concerns of adding more years of rollback because politically, my own opinion is that it is not feasible. I don't think the General Assembly is going to approve it and I am not sure it would be received very well within the land use community and the Ag community. You all had talked about taking two of the existing years of the rollback tax and earmarking those for preservation purposes and the second slide shows you how much revenue that would generate. There was a third proposal that has come up since then, which was to look at what was budgeted for rollback taxes and what was actually generated from rollback taxes and earmark the difference of those two for preservation programs. This last slide show you the budgeted amount in the second column and in the third column are the actual receipts and the last column is the difference. Had this program been in place since 2002, it would have generated almost \$700,000 worth of revenue, however, most of that revenue is generated during that boom cycle.

Mr. Adams: On this last page you say \$700,000, I am looking at the math. You are saying that for seven, eight and nine that the money that was in the pot would have transferred and gone back?

Mrs. Clark: I don't think so.

Mr. Coen: No, we would not have gotten anything.

Mr. Mayausky: That is a good point. It depends on how the ordinance would be written. I just summed up that column but it could go either way.

Mr. Hunt: Some of the positives are greater than the totals.

Mr. Adams: That is why I asked because if you are just adding the first column there, it would almost be \$1.9 million if you did not count the paying back.

Mr. Mayausky: I think the important thing here is the wild swings of that column.

Mr. Coen: Right.

Mrs. Clark: And especially the last four years.

Mr. Adams: Yeah.

Mr. Coen: Yeah.

Mrs. Clark: The good times are gone.

Mr. Mayausky: Since you are relying on another person to budget, you could end with nothing.

Mr. Coen: Right.

Mr. Mayausky: You just budget a little bit high and then there is no money for anything. I am not saying that would happen but it is certainly a possibility.

Mr. Adams: Scott, do you know if the developers ever follow that numbers and say now is a good time to cash out even though we may not build for two or three years or do they wait until the project starts? I mean, look at the example you had back there on one of those pages. It went from \$300,000 up to \$600,000 and now it is back to \$300,000. So can they actually pine for times like these

and say we will just take it out now, pay rollback, pay regular taxes, maybe we could save a couple hundred thousand.

Mr. Mayausky: We may see some of that, we have looked at that question and have found that the typical holding period once a developer buys a property and takes it out a land use and develops it is about two to three years. But who knows, times have changed. We may see some developers... You know they probably won't do that until years six, seven, eight and nine are off the books. Because that is where they have their liability and the property was valued so high then.

Mr. Hunt: And I am certainly not here to carry the water for any developer but they are businessmen and you know they are making those calculations.

Mr. Mayausky: You might see when those years drop off in the future with the market still down as low as it is, you may see some pull out.

Mr. Hunt: It is a matter of cash flow and how much they have tied in on residual payments. At the end of the day, it is a business decision for them. I don't mean that as a positive or negative, it is just a business decision. You asked me to talk to Supervisor Milde and I will read you pretty much what he wrote me but the bottom line is he wants to try to do something, this is small and he wants to get something started. His preference would be that we ask the General Assembly for enabling legislation to extend current rollbacks from five to seven years with the delta being specifically used for land preservation. I think he recognized that the reality of getting the General Assembly to actually do that is pretty slim. He would ask that we grandfather people in the current program now so that I don't change the rules for people that are in there. He is talking about having something applied for new land use only. That probably is not a bad trade off from his standpoint that lets you look forward. I am not quoting here but I think it is accurate, the amount of money that would gone at the offset, it won't even kick off for five years but I believe it is a useful tool to get started. So that is where he is coming from. Now, his fallback position would be the one you just described, which is that we dedicate two years of the current rollback tax for PDR. As a matter of fact, I think he would like for us to dedicate all five years to rollback tax for PDR but the chance of that happening is slim. Let me summarize what I think, I am the appointee and he is the appointer, right? Let me summarize what I think my appointer's position would be. We need to come to some funding mechanism to start funding the PDR program, as minimal as it is, I think he sees adding a point or half point, whatever, to the general tax rate is just too hard to sell and so doing something with rollback tax starts the program and I've got to say that I agree with him in all those respects.

Mr. Adams: My only concern is, if I understood you, is you grandfather everybody that is in now.

Mr. Hunt: Right.

Mr. Adams: Are there that many new land use applications?

Mr. Mayausky: No.

Mr. Adams: That is what I am thinking. I mean, right now if you qualify you are either in or...

Mr. Mayausky: All of the large pieces of property are in.

Mr. Hunt: I think that is a point well taken and I agree with all of that. I think from a political standpoint, how do you get started in the program and are you looking for money next year or are you looking for a funding source five or seven years from now? If you take the long view, his ideas were not bad, if you take the short view and grandfather everybody in, you wouldn't see much for quite some time. Again, I believe his position is let's do something to start giving a dedicated funding source to PDR. I think that is his bottom line.

Mrs. Clark: Well, what you could do is combine the two. Take the two years right now, that just needs local approval and go forward with those six and seven years and when the whole thing comes together you take years four, five, six and seven and then at that point in time you can grandfather people in and just use years four and five.

Mr. Hunt: I think he would not mind at all if we, the AG/PDR Committee, came in and said we want all the rollback taxes and then the Supervisors would throw their hands up and give us the last two and look like a hero.

Mrs. Clark: Scott, how much does the County depend on rollback taxes for their general spending?

Mr. Mayausky: It is a fraction. Our overall real estate records is over \$130 million range.

Mr. Hunt: I think there is an answer to that question on the last page of slide.

Mrs. Clark: Right.

Mr. Hunt: They have not been budgeting the rollback taxes with a big impact so...

Mrs. Clark: Marty is right though, for the last several years they have budgeted, not in ten, but in nine, eight, seven, they have budgeted more than what they got. Did that hurt the County then?

Mr. Adams: Yes, in those bad years, every penny hurt the County.

Mrs. Clark: In 2008, they were over \$500,000 off.

Mr. Adams: As opposed to some things, isn't this a pie in the sky number? You look, here is the tax rate, here is all the land in the county multiplied until you know what you have there. This is just guess work.

Mr. Mayausky: It is absolutely guess work, which is why the numbers are so far off because the only thing you can do when you're guessing is look back. And in looking back, that real estate bubble just threw everything off.

Mr. Hunt: I think with this committee, the biggest challenge in front of us is to think about Stafford County five years from now. Five years from now, the county could be rolling again and establishing a PDR or rollback today of \$2,000 looks like nothing but five years from now the county could be rolling and the economy turns around, I would say that you are looking at a three to five year window before we get back to a smooth economy.

Mrs. Clark: The other thing that is happening is that a lot of people that have their land in land use right now, there are not a lot but there are significant chunks of land that are owned by older citizens that may be turning over in the last little bit, not all of it but some of it.

Mr. Mayausky: No, you're right.

Mr. Coen: Before I go to Peter, just as a visual since the other charts all the 2010. When I first went to it, I was like wow, we have \$386,000. It was not until I looked at the years... Just from a visual standpoint. Did you want to...

Mr. Lott: I spoke with someone in Fauquier County who does their PDR program and he just basically stated that they started their program in 2002, and they were able to convince their Board of the relationship between rollback taxes and land conservation and were able to get all five years of the rollback taxes to fund that program at that time. They did get a lot of money from Dominion Power and other power sources, other electric utilities chip in money. I think \$2.7 million over six years came from other sources and \$6 million from rollback taxes. In about 2008 or so, they switched to financing property taxes. Originally, I think it started at two cents on property taxes and now it is six cents and that is about \$800,000 they have to spend. It was roughly \$200,000 to \$800,000 that they were getting rollback taxes. Obviously more in the boom times, that is more or less what he said. I think the best thing they were able to do was convince the Board of the relationship between the rollback taxes and land conservation.

Mr. Coen: Did he say why in 2008 they switched? Was there any particular reason?

Mr. Lott: It may have been due to the funds tailing off.

Mr. Coen: Okay. For general because if we go forward with whatever and we say, well, Fauquier does this, I am sure somebody will ask why did they switch, it would be nice to know the answer. Okay.

Mr. O'Hara: The last time we met I suggested that we go for all five years and Bob had volunteered to talk to his Supervisor and I said "Bob, I would be willing to help you put some of the thoughts on paper". We sort of went through an exercise, answering three questions. Let me look at my notes. How much do we need to have a viable program? How do we feel about using rollback to fund the general fund? And how long are we willing to wait to accrue adequate funds to have a viable one? I think, as I remember, we thought we needed about \$150,000 of county funds hoping to get another \$150,000 matching funds. Minimum, as I remember that bought us about five development units, twenty acres divided four and a quarter. We definitely felt that, and Fauquier also came to the same conclusion, that there is a certain compatibility between the goals of land use and the goals of PDR. Then, just because the window of opportunity closes as years go on, properties become developed. Basically, I can try to, in terms of a motion or resolution for the committee, to try to put that into words that we can hand back to the Board of Supervisors. This evening before I came, I real quick put some more facts, expanded it into a position on paper and I will need to take Scott's information, rolled the financial aspects of why we would prefer to go for five years versus the first two or an extended two. I just throw this out on the table as something a little bit more tangible that we can talk about as far as having something that we can work on and vote. I would make a motion to consider this resolution to send to the Board of Supervisors.

Mr. Coen: Okay. If it is seconded, then we discuss this and if there is some other idea that you want to change or alter than we can work with it at that point. So is there a second?

Mr. Hunt: Second.

Mr. Coen: Seconded by Mr. Hunt. It sort of ties in with what Bob had already said, so it ties with what Scott has given us in our meeting last month. Going for the whole five rather than going for the two. Am I correct Scott, in looking at the last chart what it would be for 2010 would be \$102,000 in the program as opposed to if we only did the delta it would only be \$2,000 and if we only did the two years it would only be \$31,000.

Mr. Mayausky: Yeah.

Mr. Coen: Okay and I know there is not much money available from the state, they cut it back a bit. One of the things we did talk about last time is trying to get a handle on if we did this, not just for the PDR program, but for land use, could it be used if Quantico was going to do something? If the Quantico thing, if that kicked in with the new budget, they would come to Stafford and Stafford would have to have money available to match it. In theory, if we had the \$102,000 and the Defense Department came and said we have this thing that we want to go for, in theory the funds would be there if we didn't think \$102,000 was going to do anything for our PDR program but could do something matching wise? Okay. Throwing all the various pieces on the table.

Mrs. Clark: And the base may not be the only place where we could get matching funds either.

Mr. Neuhard: That's true.

Mr. Coen: Any discussion on using all five years?

Mrs. Clark: Since the two years that we threw out last time was sort of arbitrary anyway, I mean, there wasn't any real reason for that, I say go for the whole five.

Mr. Adams: I am opposed to going for seven years just as a land owner. The five years is the way the law is now and we know we are going to pay. As a land owner, at that point, I realize that somebody is going to pay it, it might as well be the committee that gets it as anybody else.

Mrs. Clark: Where is it a drop in the bucket for the County budget, it would mean the difference between life and death for this program.

Mr. Neuhard: I would not want to represent to the County Administrator that anything is a drop in the bucket. I understand what you are saying. We count all our pennies.

Mr. Coen: I guess sort of the reason we lurched for the two years was, the argument was that Mr. Milde wanted to tack two years onto the existing one and what would that look like. I guess a logical question would be if it were three or four, would it really make much of a difference? I mean the two years was \$31,000 so would it really make much difference if it was three years or four years.

Mr. Hunt: Sorry to interrupt. We need to think five years down the road. I don't think it would make much difference today but a boom in the economy, it could be big dollars.

Mr. Coen: My mindset was, sort of, we are asked why did you pick two years, I would like to be able to say well... rather than say we just grabbed two years out of nowhere.

Mr. Hunt: The reason I like the resolution is it is five years and if they come back and say three or four...

Mr. Coen: Then that would fall on you.

Mr. Adams: Would it help it politically to cap it, in other words you may get all five years but not to exceed seven billion dollars? At some point there were a couple years where it was a million, to not exceed one million per year or whatever. So at least they can say after a certain point you are not getting all of it.

Mr. Mayausky: If that starts to become real money, then the County also shares the money.

Mr. Coen: No, certainly. They would make that call. I guess the first question is...

Mr. Mayausky: A crude answer to that question is if it is a five year program then each year is worth about twenty percent of the total. That is not exact but it is in the ballpark. Yes, I don't know but the cap certainly should make it more palatable to the Board.

Mr. O'Hara: What is the most we can spend in a year? How many times can we go out and how much can we spend in one shot?

Mr. Neuhard: It would depend on the size of the offering that you get. We had six properties the last time and we picked one and spent all of our money.

Mr. Adams: Actually, you got a little bit of a bonus.

Mr. Neuhard: Yes we did. So that was one set and you had a choice of six so you could have tripled that.

Mr. O'Hara: If we would have bought multiple awards except two or more... Based on what you saw...

Mr. Neuhard: Talk about the level of effort to do one parcel. To look at all six, it took us the same amount of time and so once you go to the end you prioritized that. The same level of effort went into all that, you could have spent, like I said triple or quadruple what you spent.

Mr. O'Hara: Would we have bought all six or would we have bought three if we had the money?

Mr. Neuhard: I would ask the committee that question? They were the ones looking at the value.

Mrs. Clark: I don't know, the one that did not have the public road frontage, I thought that was a little questionable.

Mr. Coen: Without getting in to... We could have, we would have kept on having a pecking... In fact, we did have a discussion, a theoretical one before we got into the weeds of each proposal. Just a theoretical one that if his parcel and her parcel added up to something we could afford and they both were better over his... So we did talk about bundling or whatever. If we could have gotten more, we would have.

Mr. Adams: I can share this now that is all said and done. I went out and talked to Jerry Silver because I was applying at the same time and Jerry was all or none. If they would have chose somebody else and they would have gotten \$200,000, Jerry would not have gone in for the \$400,000. He was either going to do all the lots or none of the lots. None of this, I will do ten now and next time I will do eight. You never know... my wife and I were the other way around. If we were to have come in second and they were willing to buy half and then half later, we would have done that. That is a case by case decision.

Mr. Coen: If we had more money we would have...

Mr. O'Hara: How much would that have been if we bought five of the six? A guess, in round numbers.

Mr. Neuhard: If we had bought how many of them?

Mr. O'Hara: Five out of the six.

Mr. Adams: Oh, five out of the six.

Mrs. Baker: We certainly would have doubled the six hundred.

Mr. Coen: Yes.

Mr. Neuhard: It would have been well over a million dollars.

Mr. Coen: Yes it would have been over a million, I remember that, yeah.

Mrs. Baker: There were probably...

Mr. Lott: The other one that was close...

Mr. Coen: Yes.

Mr. Lott: The one that came in second...

Mrs. Baker: We looked at the number of lots...

Mr. Coen: It was over a million, I remember that.

Mr. Neuhard: A million and a half.

Mr. Adams: The other five had to at least be forty lots combined.

Mr. Coen: Yes.

Mr. O'Hara: How many of these could you do a year? Based on the time it takes...of course there is the learning curve once you get past the first one.

Mr. Neuhard: Based on what we experienced I think we could do one round a year max. That would push us, one round a year.

Mr. O'Hara: So a million and a half is probably as much as we could spend.

Mr. Neuhard: As we are staffed now...

Mr. O'Hara: Based on the size of the large parcels, the available parcels.

Mrs. Baker: And if you take into consideration matching funds. You have certain deadlines and things that you have to meet with them and advertisement and such is going to add to the...

Mr. Adams: Let me ask one question. Hypothetically, let's say there was another round and two of the five that did not get it next time applied the second time. Is that any less work on staff the second time.

Mrs. Baker: If it is the same application.

Mr. Adams: I mean yeah, basically.

Mrs. Baker: We have changed some of the parameters of the Ordinance and the criteria so we would have to relook at them, we could not take the actual totals from the first time around.

Mr. Adams: Yeah, I am not saying rubber stamp it but in some cases you would not necessarily have to spend the time to go back out and revisit the parcel and look at things...

Mrs. Baker: Right.

Mr. Adams: And things of that nature, right?

Mr. Neuhard: I think there would be some time savings.

Mr. Coen: Yes.

Mrs. Baker: The only other thing I want to point out, thirty thousand dollars is likely to change each time we go through the process. The thirty thousand that we paid per development unit was based on a lot of factors at the time.

Mr. Coen: Yes.

Mr. Adams: Well Fauquier went down with their price.

Mr. Neuhard: In the meantime the idea is that it probably might go up. You did put in your policies that before each round you would reexamine that value and make sure that it was market driven calculations.

Mrs. Baker: Just one other thing to throw a kink in it is at the time we had to take into consideration steep slopes because we had that Potomac River Ordinance. That is no longer an Ordinance and that would be reconsidered whether you are subtracting steep slopes for the calculations, so different things to consider.

Mr. Coen: Okay. Alright so we are back to the main resolution. I guess the question is since this is so formal and well done why don't you just go ahead and do it.

Mr. O'Hara: I have written these before, so...

Mr. Coen: Is this something that you all like? Or do you all like our yelling it and the poor lady having to figure out what we said.

Mr. Neuhard: No, we love finished products. It makes it much easier for us.

Mr. Coen: I thought so, but I just thought I would check. Okay, so I guess...are there any tweaking changes...

Mr. Adams: I would like to see a cap per year and my basis for that is as the money goes up and up and up as we saw in this example over that Mike handed out as Fauquier decided, well, we are going to stop doing it that way and the funding source went away. Where I am thinking is if there is a cap and I don't know what the number for that cap should be right now. That is another discussion, but at least it is, alright, well, we know we are not going to get more than that so if we have a good year the general fund would reap the delta. I am hoping that politically there would be less reason to just eliminate that part of it.

Mr. Coen: Okay, so is there an agreement on putting some language in the last part...another resolve about...I would assume it would be at the...between fiscal...at the word thereafter I guess.

Mr. Hunt: I don't agree with the cap only because I don't know what to put in there. Is it a million is it ten million, I know I am being ridiculous but I have no idea what we would put in there.

Mr. O'Hara: Well, if you hire permanent staff to administer it...

Mr. Hunt: I can guarantee you if an elected Board started seeing ten million dollars in this account, they would change this resolution.

Mr. Coen: Yes.

Mr. Hunt: I think they would regulate the cap. That is my only concern about the cap. I have no intelligence of which to make a guess at that number.

Mrs. Clark: I like the psychological piece of the cap, that it makes that an easier pill to swallow for the Board.

Mr. Coen: I would even...if we put a cap, to me it would not be up in the millions it would be in the hundreds of thousands. Just because if you look at the amount that we have been getting, it has not gone over...the last time it went over a million was 2006. So even if we said five hundred thousand, we are still not hurting, we are helping. In ideal times we would have five hundred thousand dollars and if it went up to six or seven then the County gets two hundred thousand dollars and they will be happy. In bad years if it is four hundred and seventy thousand we get all four hundred and seventy thousand. So I am okay with a cap, but I...

Mr. Adams: That is why I asked, I don't keep up with the Board. I will be the first to admit. Would the cap gain votes or loose votes? I have no idea. Now I am saying if all they have got to look at is all five years going back and they vote that up or down, does having that cap entice it one way or the other? I don't know.

Mr. Coen: Any feelings from anybody else?

Mr. McClevey: I would not put a cap on it.

Mr. Coen: Okay.

Mr. McClevey: Because if I am investing in stocks I would buy low and sell high. If you have more money during a period of economic down you can buy more, you can leverage your money better.

Mr. Coen: Yes.

Mrs. Clark: Psychologically I like the cap. But I am not wedded to that.

Mr. Coen: Okay.

Mr. O'Hara: There is a principal in negotiation that says never negotiate against yourself.

Mrs. Clark: Okay.

Mr. O'Hara: For a perfect reason. They are perfectly intelligent Supervisors and if they want to do something different...

Mrs. Clark: They would bring it back to us.

Mr. O'Hara: They can do whatever they want to do.

Mr. Coen: Okay, so you say no cap?

Mr. O'Hara: I say send it the way it is.

Mr. Coen: Okay. That is three definite no caps and two yes cap and a theoretical no cap.

Mrs. Clark: I am not that politically astute. If the people that are saying send it without a cap, I can change to say send it without a cap.

Mr. Coen: Okay.

Mr. Adams: I was just asking, does a cap make it easier for the Board to swallow. I don't...I am not tied to a cap. I am not going...

Mr. Coen: Alright, so the cap is out. We are now cap less. I would like to...in the "whereas the PDR Program does not currently have a", I would like to put the word dedicated in there, a dedicated source of funding. That is something we keep yelling about we want the word dedicated. And then I am just going to ask if in the resolved section are people agreeable to the idea to making it flexible for other...you know to be used for other land conservation programs besides PDR or do they want it totally PDR?

Mr. O'Hara: Well, you may need that money to fund the TDR, if the County has to make the initial market. So you want some flexibility in there.

Mr. Hunt: The reason I said PDR, let's get this done, let's get this camel under the noses, it may give a start to other funds... that just gives the Board of Supervisors more reasons to raise their hand and say, wait a minute, what else and push this back to us. I am really not opposed to your idea I am just an advocate of simplicity in these resolutions.

Mr. Coen: Okay, any other feeling? I can go either way. I am just always big on flexibility.

Mr. Neuhard: Also Mr. Chairman, 2011, we are right in the middle of that budget.

Mr. Coen: And that was a fear that would be another fight too.

Mr. O'Hara: Is that the budget year you are on or planning for budget.

Mr. Neuhard: We are planning for 2012, we are already in 2011.

Mr. Coen: In theory we could.

Mr. Neuhard: The 2011 budget is the one they adopted last spring. We started using it in July.

Mr. Coen: Okay, so everyone agreed to change it to 2012. Okay. We don't have to, we could say we want it this year, but it probably would not fly. And is there a feeling...so far there are two feelings for more flexibility, one feeling for keeping it PDR so...

Mrs. Clark: I think I want to keep it PDR.

Mr. Coen: Okay two to two.

Mr. O'Hara: Can I ask one more question?

Mr. Coen: Yes.

Mr. O'Hara: If we change this to 2012, which obviously makes sense, would we have to wait until the end of 2012 to use the money or, I guess, the monies would go in to fund the PDR and as soon as we felt we had enough to put a solicitation out we could go ahead and do that.

Mr. Mayausky: Rollbacks get billed as the property changes use unlike real estate taxes which is twice a year. So theoretically every month there is somebody going into the rollback account. So the money would be available throughout the year. I don't know, I guess that would be a question...

Mr. Neuhard: They would probably budget it and then they would account and adjust it as appropriate. And then they would wait to appropriate it whenever we used it.

Mr. O'Hara: We are looking to get that initial one hundred and fifty, so as soon as a hundred and fifty hit there we could ask Maria to give us the heads up.

Mr. Neuhard: Yes, it would be in the budget. We would watch it.

Mr. O'Hara: We could pull the solicitation off the shelf put it in the newspaper the next day and...

Mr. Neuhard: We will be looking also for the matching funds and other things. Because we will know the minimum we are shooting for. We want to make sure we have the total amount of money in our hands. If there was nothing that year we would roll to the next year.

Mr. Coen: So it would automatically keep rolling over.

Mr. Neuhard: Well, there is a budgetary process to do that and we would have to reserve that.

Mr. Coen: Does that have to be in here? That if in 2012 we don't use the money it is going to stay there and roll over...

Mr. Neuhard: I think that is a...it is pretty clear you are dedicating to receive 2012 and thereafter to fund the PDR program.

Mr. Coen: So it would be permanent.

Mr. O'Hara: It is permanent, not temporary funds.

Mr. Coen: Okay.

Mr. Mayausky: If the PDR Committee builds up a bank of a million dollars, I assume they could roll over the money not used...

Mr. Neuhard: Absolutely. It could change at any point. It would be very unlikely that you would gather that much money that quickly. You are going to be...as you get enough money to operate and get matching funds you are going to be purchasing property because you don't want it to sit there and lose it. You are going to be spending as quickly as you can.

Mr. O'Hara: Well, the other question is it is not counted as revenue when it is budgeted, it is counted as revenue when the property changes hands. We don't have to wait until the money is collected. As soon as the money becomes receivable...

Mr. Neuhard: I don't know about that, you will have to...

Mr. Mayausky: I think you have to have the money because it may never materialize even though it was budgeted.

Mr. Neuhard: Right.

Mr. Mayausky: Which is going to the land hold process.

Mr. Adams: Scott, is there a pretty good pay back on that? In other words, the use changes hands today. Are you getting your money within sixty days?

Mr. Mayausky: Absolutely.

Mr. Adams: Or is it taking years to...

Mr. Mayausky: No, rollbacks get paid right away. I have never run across a case in my ten plus years where rollback wasn't paid on time, within thirty days.

Mr. O'Hara: You are going to get your money anyway. They are either going to pay in cash or you will take the property.

Mr. Mayausky: Yes, you can't take the property for over two years. But rollback is up front, it is on the table. The person buying the property knows they owe it.

Mr. Adams: The other question is, they couldn't...can we have applications before we actually have the money?

Mrs. Baker: Applications for PDR?

Mr. Adams: Yes. I mean you have got applications in hand, you are just waiting to know...

Mr. Neuhard: Usually we can't get matching funds unless we have a dedicated source for that matching fund.

Mr. O'Hara: Can you source it without having the funds available.

Mr. Neuhard: We could I guess, but I don't know that you would want to go through the effort unless you were very sure of getting that money because it is a large process.

Mrs. Baker: If the state is involved we have to certify that we have the matching funds for them to match.

Mr. O'Hara: In reality, we are probably not going to get to spend any money until late in 2012. The budget year is July 1 through...

Mrs. Clark: Does that mean, though, that we start collecting this July of next year? July of 2011?

Mr. Mayausky: If there is a property that has rollback taxes due in July we would collect it probably in that month.

Mrs. Clark: July of 2011?

Mr. Mayausky: Right, and hold it in an account.

Mrs. Clark: So that is a little sooner than January 1, 2011.

Mr. Coen: I forget because it was a long time ago, last year, when did we start the process? When we started soliciting bids, you know applications and all that. I know it wrapped up in January so was it...

Mrs. Baker: We actually started in January and got the application by the end of April.

Mr. Coen: Right. Just from a logistics standpoint we are not going to do anything next January anyways. So if we start getting money in July, August, September, October and November it still would not give us, if we were matching...either enough funds or matching funds, we would not be doing anything until a year from January anyways, so it still would be feasible because then we will have the money theoretically in the bank. So any other feeling about keeping it PDR or widening it out?

Mr. Adams: PDR because, like I said, because if the county decides to go in and take the money they can do it anyway.

Mr. Coen: Alright. So the only changes we made to Mr. O'Hara's resolutions are the word dedicated and then we changed 2011 to 2012. Any other changes that anyone sees that we need? Staff, is there anything that we should add or should not add?

Mr. Neuhard: Are we going to do anything else with the background?

Mr. O'Hara: I was going to work it some more. I figured you wanted to have something factual.

Mrs. Clark: We do talk about the development unit and sixty thousand dollars for the development unit and that should be thirty thousand.

Mr. O'Hara: I did not remember if it was thirty and we paid fifteen and the state paid fifteen.

Mr. Neuhard: Yes.

Mr. O'Hara: Can I circulate a draft for comment or does that have to be done in an open meeting?

Mr. Neuhard: No, I think you can discuss it in an open meeting. You can send it out and ask for comments.

Mr. Coen: Yes.

Mr. O'Hara: Do I send it to staff and staff...

Mr. Neuhard: You would send it to us, the final product. You are not making any substantial changes to this.

Mr. O'Hara: Not changing the resolution, just changing the background.

Mr. Neuhard: Right now our plan is to send it directly to all the Board members as soon as y'all provide it to us, within a day.

Mr. O'Hara: And our deadline is?

Mr. Neuhard: As soon as possible.

Mr. O'Hara: The Board meeting is?

Mr. Neuhard: The Board meeting is on the 16th of November. We would want it...you know as soon as you can get it to us we will give it to them.

Mr. O'Hara: Right.

Mr. Neuhard: The key thing is, and I don't know when they are going to schedule the next Legislative Committee. That is important we would need to know...

Mr. Coen: Right.

Mr. Neuhard: They are not going to be asking, it is a policy issue it is not a legislative issue.

Mr. Coen: Right. Before we actually vote on this resolution, is there any feel of the Committee to try to go the legislative route so we can tell them. Is there any feeling that we should try to go for the extra two years or should we just concentrate on doing this which can be done in house.

Mr. Adams: That one is a land use as opposed to...

Mr. McClevey: Yes, I would agree.

Mr. O'Hara: That would be the advice I would give to my Supervisor.

Mr. Coen: Okay.

Mrs. Clark: I agree.

Mr. Coen: Okay. Bob?

Mr. Hunt: I have no problem.

Mr. Coen: Okay, so the Committee...the resolution before us is the O'Hara resolution seconded by...

Mr. Hunt: Me.

Mrs. Clark: Enthusiastically.

Mr. Coen: Enthusiastically for the resolution as stated with the only alterations as the word dedicated being placed in the third whereas and then the year being changed to 2012. All those in favor of this proposal say aye.

Mr. Hunt: Aye.

Mrs. Clark: Aye.

Mr. McClevey: Aye.

Mr. O'Hara: Aye.

Mr. Adams: Aye.

Mr. Coen: Aye. Opposed? It passes unanimously.

Mr. Neuhard: I would suggest that you all not discuss it by email.

Mr. McClevey: The position paper, I just had a comment on the last sentence.

Mr. Coen: The word dedicated.

Mr. McClevey: Just on the position paper, while this program does not provide a consistent stream of funding it is more acceptable alternative to regulate property taxes. I think it is debatable to me whether it is more acceptable.

Mr. O'Hara: I tried not to get politically philosophical but I just could not help myself.

Mr. McClevey: Personally I would prefer to see a penny...

Mr. Coen: I guess you could say while this proposal does not provide a dedicated...a fully dedicated stream of funding it does provide a first step or something like that.

Mr. O'Hara: I am sorry I put inconsistent because the current funding...the actual amounts are not realized aren't necessarily consistent.

Mr. Coen: Alright, cool. We sort of strike out the business about the property taxes and put in there it is a first step or what Bob was getting at. Is that sort of the feel?

Mrs. Clark: And change the sixty thousand to thirty.

Mr. Coen: Yes. Thank you Mr. Mayausky.

Mr. Mayausky: You are welcome.

Mr. Adams: That changes from five to ten lots too doesn't it?

Mr. Coen: Yes. We have new business.

Mr. Hunt: I think it is appropriate, I am not sure. If not just tell me so and I will walk away. I attended the Potomac Watershed Council Roundtable Friday two weeks ago. A representative was there from Farm Bureau, from the EPA and from the DCR. All dealing with the new Chesapeake Bay laws and the...essentially what the EPA is saying is that there is a maximum TMDL, Total Maximum Daily Load, of phosphorous, nitrogen and sedimentation that can go in the water. It was quite an interesting meeting to sit in because you can imagine the Farm Bureau, the EPA and the DCR, none of them agree... it was one of the most interesting meeting I have sat in for a long time to hear a lot of hyperbole. It is my suggestion that in the long run...personal opinion for a minute, I really think that we probably focused on the agricultural side to a larger extent and we really need to focus on the urban side in these regulations. So I would just ask you a question. Which county in Virginia sells more fertilizer than any county in Virginia?

Mr. Adams: Sells?

Mr. Hunt: Sells more fertilizer than any county in Virginia.

Mr. Adams: Fairfax.

Mr. Hunt: Fairfax. That ought to tell you something about where the nitrogen load is coming from. Anyway after a whole lot of yelling and screaming about the world being taken over by the EPA...really there was a lot of hyperbole. Eventually I think what is going to happen is the county is going to be asked to identify ag lands and in some way develop conservation plans on each of those ag lands. What I would like to do is float an idea through you that you may want to take up as the Ag/PDR Committee. It seems to me that if the county identified ag use plots or ag land plots they could then turn to the Tri-County City Soil and Water Conservation District and say we fund you guys, you ought to be writing these comprehensive plans for these land users. That would not solve the TMDL load problem, but it would go a long way by showing a county like Stafford was being proactive and probably would avoid fines and a host of other things and maybe a way to at least take a baby step forward in controlling phosphorus nitrogen sedimentation. So my question is, does that fall under the jurisdiction of the AG/PDR Committee Commission, is that outside of our stuff? Is this something we would like to take up and advocate? I can see that was really well received.

Mr. Coen: Well I am intrigued I am just asking...I could see where it would fall underneath...

Mr. Neuhard: We are going to have to regulate that under our stormwater discharge purvue. And we just briefed the Board in broad terms about stormwater and those difficulties coming along. But it is an issue and we would have to go back and look at our scope, but it certainly seems like something we would want to be aware of and you certainly could...

Mr. Hunt: As a soil and water conservation guy it sure looks like an unfunded venue.

Mr. Neuhard: No question.

Mr. Coen: Gives me something to talk about tomorrow.

Mr. Hunt: If you would like I will come to the next meeting and make a little presentation or something. Maybe you would want to think about if this is something the AG/PDR group even wants to discuss.

Mr. O'Hara: I guess the question isn't really technically our topic, we do represent the agricultural community in Stafford so I would think that we probably ought to at least be knowledgeable about the issue.

Mrs. Clark: I do know that there is a huge push from Farm Bureau to push against the current Chesapeake Bay regulations. Dairy farmers, although there are none in Stafford anymore, are in a huge bind because of this right now and they are about ready to call it quits and hang it up. It is a huge push for them legislatively. I am not sure...I know that there are a lot of farmers that do have a nutrient plan in place, but I also know that there are farmers that are not taking any federal money right now, that don't have a nutrient plan in place. And I am not quite sure how they would feel about it. I don't know.

Mr. Hunt: Let me just take a guess then on the numbers. I talked to Scott six months ago. I think there are as many as twelve hundred plots of land identified as agricultural in Stafford County. There is no practical way that the Soil and Water Conservation District could write more than four or five a year. So I mean...all I am trying to do is come up with ways to take baby steps forward and solve the problem. So maybe it would be a long, long process before this is...

Mrs. Clark: You have got a nutrient plan don't you Jeff?

Mr. Adams: That is what I thought too. I thought...for the last three years I thought I had a nutrient plan, but Etta came out last week because I don't have one and it is time to get one.

Mrs. Clark: But Soil and Water is doing it for you.

Mr. Adams: Soil and Water is doing it.

Mr. Hunt: Soil and Water will do it for you, yes.

Mr. Coen: When you all were briefing and discussing was it sort of...would it fall under someone else's bailiwick other than ours?

Mr. Neuhard: Ultimately Public Works is going to have to end up regulating it.

Mr. Coen: Right.

Mr. Neuhard: And there is a huge cost to that because it is an unfunded mandate and we already have issues with the existing regulations, these are going to add to that burden. But I think if I hear what Mr. Hunt is saying is that the impact...obviously it is going to have an impact on the local jurisdiction, but it is going to have an impact on the farmers as well and it seems to me as it has already been pointed out, if there is an impact on agriculture or even though there may be impact on others, i.e. the county itself that this Committee would certainly want to: 1) be educated on the issue, and 2) if that leads to recommendations to the Board, which it might well do. We have heard some ideas here tonight, you might want to weigh in on that because it is going to be a very big issue for the county as a whole. Particularly once they establish the TMDL's, and it will impact those that are discharging which farmers are going to be a principal discharge.

Mr. Coen: Bob, did I understand you correctly when you were saying something about designating certain areas, would have to do certain things.

Mr. Hunt: I think the biggest question...not the biggest but a question came up, and set aside my comment about urban may be a bigger problem than agriculture. Just set that aside for a minute. Simply defining what portions of Stafford County are designated as agricultural is no trivial matter.

Mr. Coen: The reason why I asked is if my memory served me correctly, that is one of our four bailiwicks, to identify agricultural or farming area and so therefore that would fall under our bailiwick and we would need to do it.

Mr. Hunt: And in my discussion with Scott, the easiest way to get it...I should not say that. A way to get it is to look at the tax records and see what has an A beside it.

Mr. Coen: Okay, now I think it would be very good to bring it forward. I think...

Mr. Adams: And I see it as a split issue. In the urban areas it is coming from chemical...from people going to Home Depot buying two hundred pounds and putting it out.

Mr. Hunt: Yes, and washing away.

Mr. Adams: Which is believe me, not what I do. I take soil samples and I can tell you I am getting 50-30-168 applied to mine and you can't buy that in the store.

Mrs. Clark: I use as little as possible.

Mr. O'Hara: Agricultural problems meaning more problems with the sedimentation than the...

Mr. Adams: In this county on agriculture I would guarantee you the biggest problem is horses. You go around looking at horse manure piles in this county.

Mrs. Clark: They are in dry lots.

Mr. Adams: You are not find...

Mrs. Clark: They are not in a pasture.

Mr. Adams: You are not going to find anything else piled up like that.

Mr. Coen: Okay.

Mr. Hunt: Without editorializing on your comment. It is too hard to tackle the urban issue, but the urban issue is a major issue with the sedimentation, phosphorous, nitrogen, everything.

Mr. McClevey: It is too hard to tackle.

Mrs. Clark: Especially because that is directly tied to stormwater. Those are the places where you actually have your sewer systems

and everything.

Mr. Coen: I also would like to point out as sort of being proactive that we can be ahead of the curve even if it is not the bigger of the two problems. If memory serves me, we only have the next meeting to wrap up the ranking and get it put to bed completely. Do we think that will take the whole meeting?

Mr. Lott: I hope not.

Mr. Coen: Okay, so if you are comfortable with the next meeting or we can put it...

Mr. Hunt: They have been fighting over this for a long time so no doing it...doing it in December would not be...

Mr. Coen: Well traditionally we skip our meeting in December. We have celebrated the holiday season in a fun and festive way, by not having a meeting.

Mrs. Clark: By not coming.

Mr. Coen: Well the fourth Monday is the 27th.

Mr. Hunt: If we can't do it in November we can do it in January. This is not going away.

Mr. Coen: Okay. For November...so everyone is okay with...you think that Bob should come forward with that?

Mr. Hunt: Why don't I try to gather a little presentation then you can decide if you want to take it up or not.

5. Next Meeting – November 22, 2010 Regular Meeting

Mr. Coen: Okay. Now our next scheduled meeting is November 22nd, which is the week of Thanksgiving. Do we want to keep it on that Monday night, do we want to shift it, move it, alter it, neuter it, whatever?

Mr. Hunt: I am pretty sure I will not be here.

Mrs. Clark: I could make it.

Mr. Adams: I have no problem making it.

Mr. O'Hara: I can be here.

Mr. Coen: If memory serves me that is the only thing we wanted to do was put the ranking thing to bed, so we can go before the Board in either December or January and say this is our new...

Mr. Neuhard: Yes, we would just move everything forward and get a public hearing because we are changing the rankings.

Mr. Coen: Okay.

Mrs. Clark: We could just have a short meeting.

Mr. Coen: Yes if that is okay. The only thing that I would ask is if you can get Bob anything, when would be convenient for you to at least get a chance to look it over.

Mr. Hunt: I cannot be here in November, I am pretty sure I am going to be up a tree stand somewhere in West Virginia. Not that I don't have priorities.

Mr. Coen: He is studying the environment.

Mr. Hunt: So we probably ought to push this off to either December or January. But I tell you what I could do is to pull together some reading material and circulate it by email.

Mr. Coen: No I meant on the ranking thing so you can see it and give your feedback.

Mr. Hunt: Oh sure.

Mr. Coen: It you get it let them know when you are leaving town so they can get...and that way you can give your feedback...that way on the 22nd we will have what you think so even if you are not here your voice is still heard.

Mr. Hunt: Okay.

Mr. Coen: Do we want to make a decision about December and as I said it would be December 27th.

Mr. O'Hara: I think we ought to cancel our December meeting.

Mr. Hunt: I second that enthusiastically.

Mr. Coen: Okay. All in favor of meeting again November 22nd and not until January 24th, all those in favor say aye.

Mr. Hunt: Aye.

Mrs. Clark: Aye.

Mr. McClevey: Aye.

Mr. O'Hara: Aye.

Mr. Adams: Aye.

Mr. Coen: Aye. All those opposed? Everybody is happy with that, I saw smiles. And so, Bob, we are talking the January meeting on your presentation and then that mean our staff, which is so wonderful, gets to celebrate the holidays.

Mr. O'Hara: You can take Christmas Day off.

Mr. Adams: I wish I could.

Mrs. Clark: That is true, mouths to feed.

Mr. Hunt: You mean your chickens need to be feed on Christmas. They don't take the day off?

Mr. Coen: Oh man, Santa does not give them...Is there any other new business? No, okay.

6. Adjournment

Mr. O'Hara: Move to adjourn.

Mr. Coen: Alright, we have a motion to adjourn, is there a second?

Mrs. Clark: Second

With no further business to discuss the meeting was adjourned at 8:17 p. m.